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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, C.J.
HON'BLE SHRI SATISH K. AGNIHOTRI, J.

WRIT PETITION. No.1088 of 2001.

PETITIONERS

1. S.R. Rajpoot,
S/o. Dauram Rajpoot, Aged about 38 years, Asstt. Grade III, Office of Chief Medical and Health Officer, Mahasamund, (C.G.)

2. S.S. Giri,
S/o. Bharat Giri,
Aged 41 years, Asstt. Grade III, Office of Chief Medical and Health Officer, Mahasamund (C.G.)

3. K.R. Nirmalkar,
S/o. Pusauram Nirmalkar,
Aged 47 years, Asstt. Grade III, Office of Block Medical Officer Community Health Centre, Basna, Tah. & Dist. Mahasamund (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh,
Through Principal Secretary, Health & Family Welfare Deptt., Mantralaya, D.K.S. Bhawan, Raipur (C.G.)

2. Director
Health Services Chhattisgarh, D.K.S. Bhawan, Raipur (C.G.)

3. Chief Medical and Health Officer,
Mahasamund (C.G.)

4. M.P. State Administrative Tribunal,
Through Registrar Bench Raipur, Raipur (C.G.)

Present : Shri Ashish Shirvastava, learned counsel for the petitioners.
Shri Utkarsh Verma, learned Dy. G.A. for respondents 1,2 and 3.

ORAL ORDER

(Passed on 12th September, 2006)

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The following order of the Court was passed by S.R. Nayak, C.J.

The petitioners were initially appointed as Superior Field Worker, O.T. Attendant and Field Worker with effect from 04.03.1985, 02.01.1985 and 30.07.1982, respectively. When they were working as such, they were promoted as Assistant Grade-III by orders dated 17th April 2001 and 18th April 2001, marked as Annexures-A/6, A/7 and A/8 appended to the writ petition. Then came the impugned order dated 13.06.2001, marked as Annexure-A/14, canceling the earlier orders of promotion. Feeling aggrieved by the said order, the petitioners instituted Original Application No.825 of 2001before the State Administrative Tribunal (for short 'the Tribunal'). The Tribunal summarily rejected the application on the ground that the Original Application was premature inasmuch as the representations made by the petitioners to the appellate authority were pending consideration. The petitioners being aggrieved by that order of the Tribunal has preferred this writ petition under Articles 226/227 of the Constitution of India.

(2) Opposing the writ petition, the respondents 1 to 3 have filed return. In the return, it is contended that after the formation of the new State of Chhattisgarh, there were no vacancies in the post of Assistant Grade-III and, therefore, the petitioners had to be reverted to their substantive posts referred to above. That is the only substantive defence put forth on behalf of the respondents.

(3) Having heard learned counsel for the parties, we do not find any merit in the defence put forth by the respondents 1 to 3. The orders (Annexures-A/6, A/7 and A/8) would unmistakably show that the

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petitioners were promoted to Assistant Grade-III posts by way of regular promotion after the DPC recommended their names for promotion. If under Annexures- A/6, A/7 and A/8 the petitioners were promoted to the post of Assistant Grade-III on a regular basis, their rank could not be reduced except as a measure of disciplinary action. But, the impugned order (Annexure-A/14) would show that without conducting enquiry and without giving any opportunity to any of the petitioners, their promotions were cancelled. On this short ground, we cannot sustain the impugned order. Accordingly, the writ petition is allowed. The Order of the Tribunal and that of the third respondent (Annexure-A/14) dated 13.06.2001 are quashed. No costs. It is made clear that the petitioners are entitled to all the benefits, pecuniary and otherwise, flowing from quashing of the impugned order.

Sd/-
Satish K. Agnihotri
Judge

Sd/-
Chief Justice

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